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HDOH Has Destroyed Original, Permanent Records

The HDOH Has Destroyed Original Records Required to be Kept Permanently

Update: My letter requesting an investigation into the potential illegal destruction of permanent government records is [here](#).

A while back CNN made a splash by claiming that the Hawaii Department of Health (HDOH) had disposed of Obama's original birth certificate. Janice Okubo responded by saying they have multiple security copies and they don't destroy records since their job is to maintain records. Unfortunately, if the HDOH isn't outright lying about what records they have, they have illegally destroyed original index records which were required to be kept permanently.

When a department wants to dispose of records it is required to present them to the comptroller who decides whether the records may be destroyed or how long they must be stored and in what form. The comptroller keeps a records retention list which notes when a particular type of record was first submitted for analysis and/or disposal and what was decided about how those records should be handled. The retention list is required to be kept permanently, with new pages added as they come in, and the lists accessible to the public.

Judging by the revisions to statutes and HDOH responses to requests for training manuals for data entry clerks, the information from birth certificates was entered into an electronic database around 1977. That database would provide an easy index for workers to locate records, allowing sorting to be done by alphabet, date, and other parameters. So in 1980 the HDOH submitted their old paper indices (VR-1), actual vital records (VR-2), index to Certificates of Hawaiian Birth (VR-6), index to delayed birth certificates (VDR-1), and other documents to the comptroller to decide what should happen with them. Both the indices (VR-1) and vital records (VR-2) were required to be kept permanently, with the instructions that microfilm copies could be made for security back-up and search purposes. Later, the index of foreign births (VR-12) was also required to be stored permanently, with microfilm back-ups authorized.

When I requested to see index data from the current, computerized delayed BC index, COHB index, pending index, etc, the HDOH responded that index data doesn't include the status of the BC and HRS 338-18a forbids them from revealing ANYTHING that is on a birth certificate. But indices are public records and the index data itself is required to be public, so several people asked to see those public records. John Charlton requested to see the COHB index and after much run-around was finally allowed to see a CURRENT, computerized COHB index.

I asked to see the original indices that were made before the records were computerized. First the HDOH said they didn't know what records I meant (I had given the code names for the records: VR-1, etc). I showed them the retention schedule pages showing what I meant and that the records submitted in 1980 were required to be kept permanently either as originals or as microfilms.

When they didn't respond I reminded them that I had not heard from them and also narrowed down my request to a dozen or so pages containing particular names. They told me to look on their webpage to see how to request vital records. I reminded them I wasn't asking for vital records but for the original records containing index data, which is required to be made public. I was told the only original index they have is the vital records themselves. I pointed out to them that the retention schedule had 2 separate entries regarding documents submitted in 1980 – index records and vital records. Index records existed separately in 1980, they were required to be kept permanently, and that was what I was requesting to see. I noted that there was no revision of the permanent retention for those records as of early 2010 when I received a copy of the retention schedules so I asked to see the documentation if they had disposed of these records since then.

The HDOH sent me a response saying they have no original indices but if I paid \$100 I could get a computer printout of births in 1961 (though the birth index BOOK is for 1960-64 and the HDOH has said they can't reveal anything about the date of their records). I noted that their response had ignored my latest 3 communications and asked if they ever received those communications. They sent back an e-mail saying they had already responded to my request, totally ignoring everything I had said and asked.

In the meantime I had requested assistance from the OIP because the HDOH was acting as if it hadn't received any of my e-mails from April 20th on (the day the Conference Committee recommended passage of the "Vexatious Requestor Bill", which was passed on April 27th). The OIP told me they could not act on my case even though it was way past time for me to receive what was due me, because the HDOH was still dealing with me on it.

I consulted with Dept of Accounting and General Services (DAGS), asking where I could find these records that are required to be kept permanently. They referred me to the archivist. E-mail exchanges with her [revealed](#) that though the Archive was doing the microfilming for the HDOH during those years, they had never been asked to make microfilms of any indices and don't have possession or

administrative control over either microfilmed or original indices. The archivist said the retention schedule indicates the HDOH is required to have those originals and I should contact them.

Six office days ago I contacted the HDOH to let them know that the Archivist had agreed that the records say the HDOH has to have those originals. I asked point-blank where they are. I haven't heard back. In the meantime, I was also [informed](#) that they have no index to foreign births (which I had asked for in a separate request), even though that was included in the retention schedule as well.

So we have records showing that the HDOH MUST HAVE these documents and the HDOH is claiming they don't exist. This is the 11th office day since I asked to see any documentation regarding the destruction of these records. Departments are required to document that all records they have destroyed were approved for disposal according to the retention schedule. (See p 2 at <http://hawaii.gov/dags/archives/records-management/DISPOSAL%20OF%20GOVERNMENT%20RECORDS%208-23-06%20revision.pdf>)

Summary: If the HDOH was not blatantly lying when they said they have no original indices, then these records were illegally destroyed. Okubo's own words about the HDOH not destroying records may come back to bite her in the rear.

+++++

The complete exchange with the HDOH is here:

Feb 3, 2010, I sent this request:

From: Nellie
Sent: Wednesday, February 03, 2010 2:31 PM
To: Okubo, Janice S.
Subject: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

2-3-10

Aloha.

Pursuant to UIPA, I request an electronic copy of the microfilm for the birth and death indexes (VR-1, VDR-1, & VDR-6, & VDR-10) for 1961. The records retention schedule says that these must retained permanently.

Thank you.

Nellie

Sixteen days later the HDOH sent this:

— Original Message —

From: [hdohinfo](#)

To:

Sent: Friday, February 19, 2010 6:00 PM

Subject: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

Aloha Ms. (redacted):

We are unfamiliar with what you mean by VR-1, VDR-1, VDR-6 and VDR-10. Could you please clarify your request?

Thank you.

Hawaii Department of Health

Public Information Office staff

Send mail to:

State Department of Health

Office of Health Status Monitoring

Issuance/Vital Statistics Section/UIPA Request

Honolulu, HI 97801

hdohinfo@doh.hawaii.gov

I responded with this:

From: Nellie

Sent: Thursday, April 08, 2010 5:08 AM

To: hdohinfo

Subject: Re: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

Aloha!

VR-1 Birth index (p 21 on retention schedule)

VDR-1 Delayed BC Index (p. 22 on retention schedule)

VDR-6 COHB Index (p 23 on retention schedule)

VDR-10 Index to certificates of foreign birth (p 19 on retention schedule)

I've enclosed the retention schedules so you can see what I'm talking about. There should be either original copies or microfilms. Since these are from 1961 they would not be computerized. I'm asking for electronic copies of the original or microfilmed records, including everything that was authorized for public release before UIPA was passed in 1988 (name, birth date, and certificate number – which were public since at least 1977; see p. 11 of OIP Opinion Letter [90-23](#)) since UIPA was not intended to close any previously-authorized disclosures (see *Opinion Letter 90-04 (page 6)*). Any other information may be redacted if its disclosure was not authorized before 1988 and an exemption to disclosure applies)

I just noticed that VDR-10 begins in 1981 so there would not be any records for 1961. My apologies for that mistake.

Thanks!

Nellie

Having received no response I reminded the HDOH that I was waiting and narrowed down my request:

— Original Message —

From: Nellie

To: [hdohinfo](#)

Sent: Tuesday, April 20, 2010 9:58 PM

Subject: Fw: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

Aloha!

I haven't heard back from you on this and realize that these would be very large records. I'll narrow this down, for now, to copies of the original VR-1 pages from 1961 containing birth index data for Michael T Asing, Nathan C Asing, Rocky W Asing, Norman Asing, Barack H Obama II, and Tomiyo Sunahara, as well as the 3 pages before and 3 pages after each of those pages.

As I mentioned earlier, the name, birth date and certificate number were actually required for public disclosure before UIPA was passed in 1988 and so they were grandfathered in as discloseable. Any other information may be redacted if necessary to protect confidential information.

I prefer to receive these as electronic scans via e-mail.

Thank you.

Nellie

The HDOH response was totally unrelated to my request and neither fulfilled nor denied my request:

— Original Message —

From: [hdohinfo](#)

To: Nellie

Sent: Wednesday, April 21, 2010 6:38 PM

Subject: RE: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

Aloha Ms. (redacted):

Please visit our site <http://hawaii.gov.health/vital-records/obama.html> to review conditions under which vital records may be requested.

Hawaii Department of Health

Public Information Office staff

Send mail to:

State Department of Health

Office of Health Status Monitoring

Issuance/Vital Statistics Section/UIPA Request

Honolulu, HI 97801

hdohinfo@doh.hawaii.gov

I responded:

— Original Message —

From: Nellie

To: [hdohinfo](#)

Sent: Wednesday, April 21, 2010 8:13 PM

Subject: Re: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

I have not requested vital records. I have requested to see a government record of index data. In an e-mail yesterday I further clarified the particular records I am asking to see. I said:

>>>>

Aloha!

I haven't heard back from you on this and realize that these would be very large records. I'll narrow this down, for now, to copies of the original VR-1 pages from 1961 containing birth index data for Michael T Asing, Nathan C Asing, Rocky W Asing, Norman Asing, Barack H Obama II, and Tomiyo Sunahara, as well as the 3 pages before and 3 pages after each of those pages.

As I mentioned earlier, the name, birth date and certificate number were actually required for public disclosure before UIPA was passed in 1988 and so they were grandfathered in as discloseable. Any other information may be redacted if necessary to protect confidential information.

I prefer to receive these as electronic scans via e-mail.

Thank you.

Nellie

After a week of waiting and receiving no response at all I sent this:

— Original Message —

From: Nellie

To: [hdohinfo](#)

Sent: Monday, April 26, 2010 4:36 PM

Subject: Fw: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

It is past the time for you to have sent the requested records I asked for. When will you be sending these public records to me?

Thanks.

Nellie

They responded:

— Original Message —

From: hdohinfo

To: Nellie

Cc: Linden.H.Joesting@hawaii.gov

Sent: Tuesday, May 04, 2010 6:25 PM

Subject: RE: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

Aloha Ms. (redacted),

This is in response to your request sent April 8, 2010. The department has no records responsive to your request as there are no “original copies or microfilms” of birth index data from 1961. The “original copies or microfilms” from which birth index data is compiled consist of vital statistics records that are restricted from disclosure under Hawaii Revised Statutes 338-18. All birth index data is stored electronically, therefore, birth index data is available to the public in the form of pages generated by a computer.

The department can mail you all birth index data from 1961. We require a prepayment of \$98.75 to cover our costs in order to send you the records. Please see the attached Notice to Requestor form OIP 4 (rev. 8/29/08) for a breakdown of the costs to provide you with the records.

If you would like to receive the computer printed pages of birth index data, please send your cashiers check, certified check or money order to:

State Department of Health

Office of Health Status Monitoring

Issuance/Vital Statistics Section/UIPA Request

P.O. Box 3378

Honolulu, HI 96801

[Hawaii Department of Health](#)

[Public Information Office staff](#)

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[Issuance/Vital Statistics Section/UIPA Request](#)

[Honolulu, HI 96801](#)

hdohinfo@doh.hawaii.gov

My response:

— Original Message —

From: Nellie

To:
hdohinfo

Sent: Tuesday, May 04, 2010 11:20 PM

Subject: Re: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

Your response ignores the e-mail I sent on April 20th. - 11 office days ago – and the reminder I sent on April 21st saying that a response was overdue and specifically stating that I had sent an e-mail narrowing down my request and including an actual copy of that e-mail I had sent. I also reminded you again on April 26th. Those e-mails are printed below.

Your e-mail doesn't have those communications included. Did you receive the e-mails I sent on April 20, 21, and 26th? If not, do you have my e-mail address blocked or have you in any other way kept my e-mail from reaching your office or destroyed my e-mails? I have contacted my ISP and they assured me that if a message is not delivered I would get a message saying so. They said the only reason for my e-mails to not be received would be if the recipient of the e-mails blocked them or routed them to a spam folder. Are my e-mails being sent to a spam folder? According to my ISP provider none of my e-mails should have been "lost" but 2 of the e-mails I sent which are older than the 10-business-day limit you have to respond to requests have gone totally unanswered. What is going on in your office?

Please note that I did not ask for VR-2, which is the certificates. VR-1 is listed as something different than the certificates and it is required to be permanent – with microfilm copies possible – which indicates that it was a physical document (not a digital record) required to be kept permanently and thus still in existence today. I sent the DOH retention schedule with one of my e-mails and listed the page numbers for the items I requested. On the same page as VR-1 (indexes) is VR-2 (the certificates) so if you looked at the information I gave you at all you would have seen that these are different records, with different reference codes. I could not have made my request any clearer, nor could I have documented any more clearly that I was requesting the index, which is distinct from the certificates and is required to be kept permanently – possibly on microfilm. Whatever paper documents were in use when the records were computerized was not authorized to be destroyed by any revision in the retention schedule as of the beginning of this year when I received my copy of the DOH retention schedule.

If this document was destroyed I request to see the disposal request and the revised retention schedule, as well as any communications involving the request for the destruction of this record, which had to have happened sometime since the beginning of this year.

Index data is not only discloseable; it is REQUIRED to be disclosed. HRS 338 specifically authorizes the disclosure of index data. HRS 338-18A – the only part which forbids the disclosure of information from vital records – only forbids disclosures NOT ALREADY AUTHORIZED BY RULES OR LAW. Because index data is REQUIRED to be disclosed, the provisions of 338-18a never apply to that information. UIPA says that disclosures specifically authorized by law MUST be made upon request. There is therefore nothing which protects this record from disclosure, although information which was not authorized for disclosure before UIPA was passed should be redacted – as I said before. Before UIPA was passed the law required that the name, date, and certificate number be disclosed. Those are the parts which are required by UIPA to be disclosed, and there is no reason it can't be disclosed from the original index document – which is a public record and therefore must be disclosed.

I will respond further when I receive a response that incorporates what I said in my last 3 e-mails regarding this request:

Their response totally ignored what I said in my e-mail:

— Original Message —

From:
hdohinfo

To: Nellie

Cc:
qip@hawaii.gov

Sent: Thursday, May 06, 2010 8:17 PM

Subject: RE: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

Aloha Ms. (redacted):

We believe we have already responded to your request. Copied below is our response again.

Aloha Ms. (redacted),

This is in response to your request sent April 8, 2010. The department has no records responsive to your request as there are no “original copies or microfilms” of birth index data from 1961. The “original copies or microfilms” from which birth index data is compiled consist of vital statistics records that are restricted from disclosure under Hawaii Revised Statutes 338-18. All birth index data is stored electronically, therefore, birth index data is available to the public in the form of pages generated by a computer.

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[Issuance/Vital Statistics Section/UIPA Request](#)

[Honolulu, HI 96801](#)

hdohinfo@doh.hawaii.gov

In response, I put the question to them point-blank:

— Original Message —

From: Nellie

To:
[hdohinfo](#)

Sent: Tuesday, May 11, 2010 9:48 PM

Subject: Re: UIPA Request – VR-1, VDR-1, VDR-6, VDR-10

I contacted Susan Shaner, the Archivist, who said that they were not asked to microfilm the indices in 1980 so they do not have microfilms and they also don't have the original paper records. Upon seeing the retention schedule she suggested that I contact you because you should have them. Where are they?

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14 Responses to *HDOH Has Destroyed Original, Permanent Records*

1.  *ksdb* says:

[May 18, 2010 at 7:27 pm](#)

Butter, the retention schedule refers to a 'security copy' rather than an 'original' copy of the indexes. Maybe the DOH is gaming you and trying to play this literally to avoid fulfilling your request? You could reply by asking for a copy of the security copy of the VR-1 indexes??

[Reply](#)

o  *butterdezillion* says:
[May 18, 2010 at 8:58 pm](#)

I thought the security copy referred to a microfilm copy, if it was made. The Archives said they were never asked to make a microfilm copy.


[Reply](#)

2.  *ksdb* says:

[May 19, 2010 at 4:56 am](#)

The one schedule said "May microfilm security copy. May microfilm search copy." Maybe they're hiding behind one of these or other terms or maybe the microfilm copies have been converted to electronic imaging formats?? Just trying to think if they might be playing word games, and how you might be able to follow up.

[Reply](#)

o  *butterdezillion* says:
[May 19, 2010 at 5:40 am](#)

Seems like anything's possible with these folks. But the archivist said that no microfilms were made, so all they would have would be originals.

[Reply](#)

3.  *Aussie* says:

[May 19, 2010 at 9:32 am](#)

This is very interesting when you start talking about archiving of records.

In my past working life, I had a stint at Australian Archives, where we kept mostly the Federal Government records, and at one